

Notice of Allowability	Application No.	Applicant(s)	
	09/752,564	SAKAUE ET AL. S 50	
	Examiner Gregory J. Strimbu	Art Unit 3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. This communication is responsive to the amendment of 6/8/04 and the tele. int. of 9/1/04.
2. The allowed claim(s) is/are 1-13 and 17.
3. The drawings filed on _____ are accepted by the Examiner.
4. Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All
 - b) Some*
 - c) None
 of the:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) hereto or 2) to Paper No./Mail Date _____.
 - (b) including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. Notice of References Cited (PTO-892)
2. Notice of Draftperson's Patent Drawing Review (PTO-948)
3. Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 3/17/01 + 1/3/01
4. Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. Notice of Informal Patent Application (PTO-152)
6. Interview Summary (PTO-413),
Paper No./Mail Date 9/1/04.
7. Examiner's Amendment/Comment
8. Examiner's Statement of Reasons for Allowance
9. Other _____.

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Bret Nelson on September 1, 2004.

The application has been amended as follows:

In the title:

changed the title to --VEHICLE REAR GATE OPENING AND CLOSING APPARATUS--

In the specification:

page 2,

line 3, changed "13" to --12--

page 4,

line 3, changed "rifting" to --lifting--

page 6,

line 17, changed "I-I" to --V-V--

line 19, changed "II-II" to --VI-VI--

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line 21, changed "III-" to --VII---

line 22, changed "III" to --VII--

In the claims:

claim 1,

line 1, changed "a rear gate" to --an--

line 2, changed the first occurrence of "said" to --a--

line 5, deleted "and for traveling"

line 7, deleted "provided for" and changed "attachment" to --attached--

line 12, deleted "a mounting base . . . installing" and inserted --attached to said vehicle-- following the last occurrence of "base"

line 14, changed "attachable to" to --mounted on-- and changed "attached to" to --mounted on--

line 16, inserted --as said rear gate moves between a fully open position and a closed position said gas stay-- following "and" and changed "extending" to --extends--

line 17, inserted --, generally parallel with said roof,-- following "vehicle" and deleted ", said apparatus"

line 18, deleted "being located . . . said vehicle"

claim 4,

line 4, deleted "a manipulator . . . rear gate;"

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claim 6,

line 3, changed the last occurrence of "the" to --an--

claim 7,

line 1, changed "apparatus" to --vehicle--

line 3, inserted --a rotation of-- following "that", deleted "is rotated" and inserted
--is assisted-- following "direction"

line 4, deleted "against . . . gas stay" and changed the last occurrence of "a" to
--said--

claim 8,

line 2, changed "a" to --when said rear gate has reached said--

changed lines 3-4 to --fully open position as said rear gate is being opened.--

claim 9,

line 2, changed the last occurrence of "a" to--said-- and changed "opened" to
--open position--

line 3, changed "closed condition" to --said closed position--

claim 11,

line 1, inserted --when said rear gate is operated manually,-- following "wherein"

line 3, changed "performed . . . rear gate is" to --within a specified range when the opening and closing motion of said rear gate is within said specified range, said controller controls said power source unit for automatically opening or closing said rear gate.--

deleted lines 4-6

claim 12,

line 5, deleted "for manually . . . rear gate" and deleted "an"

line 6, changed the last occurrence of "of" to --from-- and changed "and" to --by--

line 7, changed "disengages" to --disengaging--

claim 13,

line 2, changed "a fully" to --said-- and changed "condition" to --position--

line 3, deleted "and said . . . position of"

line 4, deleted "said rear gate"

canceled claims 14-16

claim 17,

line 2, changed "a" to --when said rear gate has reached said--

changed lines 3-4 to --closed position as said rear gate is being closed.--

Drawings

The following changes to the drawings have been approved by the examiner and agreed upon by applicant:

- In figure 2, 1) change “I-I” to --V-V--
 - 2) change “II-II” to --VI-VI--
 - 3) change “III-III” to --VII-VII--

In figure 5, 1) include the proper cross sectional shading in accordance with MPEP 608.02

In figure 6, 1) include the proper cross sectional shading in accordance with MPEP 608.02

In figure 7, 1) include the proper cross sectional shading in accordance with MPEP 608.02

In order to avoid abandonment of the application, applicant must make these above agreed upon drawing changes.

Reasons for Allowance

The following is an examiner's statement of reasons for allowance: the prior art of record, absent applicant's own disclosure, fails to teach the entire combination of elements set forth in the claimed invention. Specifically, the prior art of record fails to

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teach a vehicle having an opening and closing apparatus comprising a gas stay rotatably mounted on the side rail at one end thereof and mounted on the hinge arm at the other end thereof, disposed at substantially the same height as and approximately in parallel with the connecting rod and as the rear gate move between a fully open position and a closed position, said gas stay extends in the longitudinal direction of the vehicle, generally parallel with the roof, for biasing the rear gate in an opening direction. See lines 14-17 of claim 1.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory J. Strimbu whose telephone number is 703-305-3979. The examiner can normally be reached on Monday through Friday 8:00 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Gregory J. Strimbu
Primary Examiner
Art Unit 3634
September 1, 2004